

Doctors outraged at Patriot Act's potential to seize medical records

Jeanne Lenzer *New York*

US doctors across the political spectrum are protesting at a provision in the Patriot Act that allows the government to seize patients' medical records without a probable cause or a warrant. The act prohibits doctors from telling anyone, including the patient, that their sensitive medical records have been seized. Doctors who violate the gagging order can be fined and prosecuted for obstruction of justice.

The Association of American Physicians and Surgeons (a libertarian group based in Tucson, Arizona) and the American Civil Liberties Union, which has many doctor members, have joined in a coalition, called Patriots to Restore Checks and Balances, to urge Congress to amend Section 215 of the act. The provision, which only recently came to light, allows the Federal Bureau of Investigation (FBI) to get a secret court order to seize "any tangible things," including medical records, student or work records, and even library records. Coalition members say that medical records are unlikely to provide useful information about terrorists.

The act, passed in the wake of the 11 September 2001 terrorist attacks, gives the government a broad range of rights to monitor US citizens and is set to expire on 3 February. President Bush is urg-

ing Congress to renew the act. He said, "We're still under threat, there's still an enemy that wants to harm us, and they understand the Patriot Act is an important tool for those of us here in the executive branch to use to protect our fellow citizens."

The inclusion of medical records was highlighted by a reporter, Joy Buchanan from the *Daily Press* in Newport News, Virginia, who was alerted to a clause in one medical centres' brochure for patients on privacy.

The brochure stated that the centre "may disclose medical information about you to authorised federal officials so they may without limitation (i) provide protection to the President, other authorised persons or foreign heads of state or conduct special investigations, or (ii) conduct lawful intelligence, counter-intelligence, or other national security activities authorised by law."

Ms Buchanan reported the story in the *Daily Press* on 29 December (sect A: 1).

Subsequent investigations have shown that virtually all medical centres have incorporated the same or similar language in their brochures. Under the Health Insurance Portability and Accounting Act, patients must be told that their records are private and about any exceptions to that rule. The statements are



House judiciary chairman, James Sensenbrenner (centre), at a news conference on the Patriot Act with homeland security committee chairman Peter King (left) and the attorney general, Alberto Gonzales

often a single paragraph in documents several pages long, which are given to patients before they see a doctor.

Michael Williams, associate professor of neurology and neurosurgery at Johns Hopkins University, Baltimore, said most people in the United States don't seem to know about Section 215. "I only found out about it in June 2005 at a meeting of the American Medical Association. If patients knew about this, I think they would be bothered—or I hope they would be," he said. "If our records can be seized with no safeguards then we're all in trouble."

Duane Cady, chairman of the board of the American Medical Association, said that the association adopted a new policy in June 2005 "calling for modifications to the Patriot Act to protect patient confidentiality and minimise legal liability for physicians."

Congressman Dan Lungren of California defended the provision allowing the seizure of medical records. He said it might be important to know if, for example, someone connected to an international terrorist organisation sought an anthrax vaccine. He said the government couldn't afford to be limited by the need for "probable cause." There is an "essential difference," he said, "between a criminal investigation to prove who committed a crime after it's occurred and the need to prevent terrorist attacks."

Jane Orient, executive director of the Association of American Physicians and Surgeons, warned, "This war against terrorism is a totally open ended affair, and the definition of terrorism is [overly] broad." □

See www.aclu.org/privacy/medical/15222res20030530.html.

UK drug companies must disclose funding of patients' groups

Michael Day *London*

Drug companies must make public their involvement with patients' advocacy groups, under a revised industry code of practice introduced in the United Kingdom this month.

From 1 January firms are expected to name all patients' organisations that receive their financial support. They must also set out details of such relationships and any funding provided, say the new rules of the Association of the British Pharmaceutical Industry. The update

of the code was prompted partly by the severe criticism the industry received in the parliamentary health select committee's report on the influence of drug companies, published in April last year.

A spokesman for the association said: "This is designed to ensure that the industry's involvement with patient groups is completely transparent. It's now up to the voluntary sector to do their part."

Charles Medawar, who runs the campaign group Social

Audit, said, "Links with patient groups are now considered such a major marketing tool and such an integral way of competing with the competition, I doubt the industry will voluntarily alter things too much."

However, Harry Cayton, the government's national director for patients and the public, welcomed the revised code of practice—and he also called on patients' organisations to show a similar level of transparency.

He said, "I welcome this move—and I would urge patients' groups to be equally as upfront. The charitable sector does need to raise its game."

Mr Cayton said that during his time as chief executive of the Alzheimer's Society the group

received a small amount of its income ("less than 0.1 per cent") from the drug industry but that it was declared.

Simon Williams, director of policy at the Patients Association, said: "Some groups simply couldn't survive without money from the pharmaceutical industry, but transparency is vitally important and not only in terms of drug company funding. If a group gets money from another source, say the government, that should be declared too. We make it clear on our publications and annual reports of any funding we receive." □

Key changes to the code are listed at www.abpi.org.uk/press/press_releases_05/051116b.asp.